

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

LENZZIE R. VANCE,
Petitioner,

vs.

Civil Action 2:10-CV-746
Judge Marbley
Magistrate Judge King

WARDEN, HOCKING CORRECTIONAL
FACILITY,

Respondent.

REPORT and RECOMMENDATION

Petitioner Vance has submitted a petition for a writ of habeas corpus under 28 U.S.C. §2254, but has not paid the \$5.00 filing fee. Although petitioner has not filed an application for leave to proceed *in forma pauperis*, he has submitted a statement of his institutional account, which the Court receives as a motion for leave to proceed *in forma pauperis*.

According to that statement, petitioner currently has on account more than \$130.00. It therefore appears that petitioner is financially able to pay the full \$5.00 filing fee.

It is **RECOMMENDED** that petitioner's motion for leave to proceed in forma pauperis, Doc. No. 1, be **DENIED** and that petitioner be ordered to pay the full \$5.00 filing fee within thirty (30) days. Petitioner's failure to do so will result in the dismissal of the action for failure to prosecute.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within fourteen (14) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part

thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within fourteen (14) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

August 20, 2010
(Date)

s/Norah McCann King
Norah M°Cann King
United States Magistrate Judge